

भारत की राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—भाग—2

PART II—Section 2

प्राविकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 1] नई दिल्ली, सोमवार, फरवरी 17, 1969/मध्य 28, 1890

No. 1] NEW DELHI, MONDAY, FEBRUARY 17, 1969/MAGHA 28, 1890

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह घलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Report of the Joint Committee of the Houses of Parliament on the Bill to make provision relating to marriages of citizens of India outside India was presented to the Rajya Sabha on Monday, the 17th February, 1969:—

Composition of the Joint Committee

MEMBERS

Rajya Sabha

1. Shrimati Violet Alva—Chairman.
2. Shri Godey Murahari
3. Shrimati Annapurna Devi Thimmareddy
4. Shri Banka Behary Das
5. Shrimati Usha Barthakur
6. Shri K. Damodaran

7. Shri A. C. Gilbert
8. Shri Syed Ahmad
9. Shri Om Mehta
10. Shri Pitambar Das
11. Shri Sundaramani Patel
12. Shri Narayan Patra
13. Shri K. P. Mallikarjunudu
14. Shri B. S. Savnekar
15. Pandit Sham Sundar Narain Tankha.

Lok Sabha

16. Shri S. M. Krishna
17. Shri Ramchandra J. Amin
18. Shri A. E. T. Barrow
19. Shri B. N. Bhargava
20. Shri Jyotirmoy Bosu
21. Shrimati Ila Pal Choudhuri
22. Shri B. K. Daschowdhury
23. Shri Devinder Singh
24. Shri Shri Chand Goyal
25. Shri V. N. Jadhav
26. Shri Shiva Chandra Jha
27. Shri Z. M. Kakandole
28. Shri Dhireswar Kalita
29. Shri Liladhar Kotoki
30. Shri V. Krishnamoorthi
31. Shrimati Sangam Laxmi Bai
32. Shri Vikram Chand Mahajan
33. Dr. M. Santosham
34. Shri Lakhan Lal Gupta
35. Shrimati Shakuntala Nayar
36. Shri Vishwa Nath Pandey
37. Shri S. B. Patil
38. Shri Bhola Raut
39. Shri Mohammad Yunus Saleem
40. Shri P. A. Saminathan
41. Shri Shiv Kumar Shastri
42. Shri Janardan Jagannath Shinkre
43. Shri Sant Bux Singh
44. Shri Nagendra Prasad Yadav
45. Shri P. Govinda Menon.

REPORT OF THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which the Bill* to make provision relating to marriages of citizens of India outside India, was referred, having been authorised to submit the Report on their behalf, present this their Report with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Rajya Sabha on the 10th May, 1963 by Shri R. M. Hajarnavis, the then Minister of State in the Ministry of Home Affairs.

3. The motion for reference of the Bill to a Joint Committee of the Houses was moved in the Rajya Sabha by Shri R. M. Hajarnavis the then Minister of State in the Ministry of Law on the 19th November, 1965 and was adopted on the same day. A message was thereafter transmitted to the (third) Lok Sabha on the 19th November 1965, communicating to the Lok Sabha the adoption of the said motion by the Rajya Sabha. The third Lok Sabha was dissolved on the 3rd March, 1967, before any action could be taken pursuant to the said message.

4. A fresh motion for reference of the Bill to a Joint Committee of the Houses was moved in the Rajya Sabha by Shri Mohammad Yunus Saleem, Deputy Minister in the Ministry of Law on the 13th May, 1968 and was adopted on the same day.

5. The motion for concurrence in the recommendation of the Rajya Sabha was discussed in the Lok Sabha on the 29th August, 1968 and was adopted on the same day.

6. The message from the Lok Sabha was reported to the Rajya Sabha on the 30th August, 1968.

7. The report of the Committee was to be presented to the House by the 31st December, 1968. The Committee were, however, granted extension of time upto the first day of the Sixty-Seventh Session of the Rajya Sabha.

8. The Committee held eight sittings in all.

*Published in the Gazette of India, Part II, Section 2, dated the 10th May, 1963.

9. At their first meeting held on the 2nd September, 1968 the Committee decided to issue a Press Communiqué inviting memoranda from various association and individuals interested in the subject-matter of the Bill and to hear evidence from them. The Committee authorised the Chairman to decide, after examining the memoranda as to who should be called to give oral evidence, before the Committee.

10. Suggestions|memoranda were received by the Committee from the following individuals and organisations:

- (i) Shri Sarb Jit Singh, University Law Department, Punjabi University Campus, Patiala.
- (ii) Shri B. S. Sawhney, Ludhiana.
- (iii) Prof. T. S. Rama Rao, Professor of International and Constitutional Law, University of Madras.
- (iv) Shri Akshayabat Nath Sinha, Patna.
- (v) Indian Federation of women Lawyers, Bombay.

11. The Committee heard the evidence tendered by Dr. Shrimati Latika Sarkar, Reader, Faculty of Law, University of Delhi.

12. The Committee have decided that evidence tendered before them should be laid on the Table in both the Houses.

13. The Committee considered and adopted the Report on the 13th February, 1969.

14. The observation of the Committee with regard to the principal changes suggested in the Bill are set out below:—

Clause 4

The Committee note that under the Special Marriage Act, 1954, a marriage within prohibited degree of relationship can be solemnized when the personal law or a custom governing at least one of the parties allows such a marriage. The Committee are of the opinion that such a marriage should also be permitted to be solemnized under this Act. A proviso has therefore been added to achieve this objective.

Clause 6

The Committee feel that any person desirous of inspecting the Marriage Notice Book should have access to it without paying any fee. The clause has been amended to this effect.

Clause 11

The Committee are of the opinion that whenever a Marriage Officer refuses to solemnize a marriage on the grounds mentioned in sub-clauses (1) and (2) of the clause, he should record in writing the reasons therefor. Amendments to that effect have been made in the two sub-clauses.

Clause 13

The Committee are of the view that the declaration to be made under sub-clause (2) by one party to the other, in the presence of the Marriage Officer and the three witnesses for solemnization of the marriage, should be made in a language which is understood by the Marriage Officer or by the witnesses. In the eventuality of the declaration being made in a language which is not understood by any of these persons, the declaration should be interpreted or caused to be interpreted by either of the parties to the marriage in a language understood by such persons. A proviso has therefore been added for this purpose.

Clause 15

The changes made are of a drafting nature.

Clause 16

The Committee feel that the maximum time limit within which the parties have to solemnize their marriage after the notice is given, should be extended from three months to six months. The clause has been amended accordingly.

Clause 17

The Committee are of the opinion that the grounds on which Marriage Officer can, under sub-clause (2) of clause 11, refuse solemnization of a marriage, should also be included in the grounds on which he can refuse registration of a marriage. The Committee also feel that provision for appeal to the Central Government against the refusal of the Marriage Officer to register a marriage, should also be made on the lines of provision contained in sub-clause (3) of clause 11. Two new sub-clauses (3) and (4) have accordingly been added to achieve this objective.

Clause 18

Sub-clause (3) of the clause provides for requirements as to jurisdiction in respect of void and voidable marriages. The sub-clause in

the Bill as introduced did not make any distinction between void and voidable marriages. As a voidable marriage is valid and subsisting marriage till it is annulled, the grounds for exercising jurisdiction for annulling it should be more stringent as otherwise there may be a danger of foreign courts not recognizing decrees passed by our courts. On the other hand, in the case of void marriages, jurisdiction should be exercised liberally.

Accordingly the Committee are of the opinion that in the case of a voidable marriage, courts should not be authorised to exercise jurisdiction merely on the ground of domicile or residence of the petitioner in India at the time of the presentation of the petition. The Committee, however, feel that in the case of a wife being the petitioner, the courts may exercise such jurisdiction where she has been a resident of India for a period of three years before the presentation of the petition and the marriage has been solemnized under the proposed legislation.

In the case of a void marriage, the Committee are of the opinion that instead of the requirement that both the parties to the marriage should be domiciled in India at the time of presentation of the petition, it should be provided that either of the parties to the marriage are domiciled in India at the time of the presentation of the petition.

With these views, the Committee have amended sub-clause (3) of the clause accordingly.

Clause 19

The clause has been amended to cover marriages which are deemed to have been solemnized under the Act.

15. The other changes made by the Committee in the Bill are of a formal or verbal nature.

16. The Committee recommend that the Bill, as amended, be passed.

NEW DELHI;
February 13, 1969.

VIOLET ALVA,
Chairman of the Joint Committee.

Minutes of Dissent

I

The need for this Bill admittedly arose at the time of discussion in Parliament of Clause 4 of the Special Marriage Bill 1954 which *inter alia* dealt with marriages between two citizens of India in so far as they are solemnized outside the territories of India. As that Bill did not cover cases of marriages solemnized outside India where one of the parties only is an Indian citizen and the other a foreigner, it was necessary and desirable as stated by the then Minister of State in the Ministry of Law, Shri R. M. Hazarnavis in the course of proceedings of the debate of the Rajya Sabha dated 18-11-65, to bring forward a separate Bill for that purpose.

Accordingly the Law Ministry requested the Law Commission to make a report and the Law Commission, after carefully examining all the questions involved in the matter, presented a report along with a Draft Bill which formed the basis of the present Bill. While discussing the form which the proposed legislation is to take, the Law Commission set forth in para 18 of their 23rd report four alternatives and finally chose to adopt the second of them. The first alternative contemplated the preparation of a draft for a separate and self-contained Act, enacting all the relevant provisions in full. The second alternative was to draft an Act without making it self-contained which would refer to such of the provisions of the Special Marriage Act of 1954 as were made applicable. While rejecting the first alternative and adopting the second one the Law Commission did not give any convincing reasons except to say that unnecessary repetition of a major portion of the Special Marriage Act will thereby be avoided.

It is the experience of lawyers even of longstanding that they find it difficult to make use of referential legislation. It may not matter much if references to another enactment are few and far between. But when, the references are far numerous and relate to Chapters and Chapters, they present a great deal of difficulty. The position becomes worse when provisions of the Sections or Chapters

referred to are again subjected to variations and modifications made in the referring enactment as is the case in the proposed legislation. For instance, let us take clause 18 of Chapter IV of the present Bill and examine its provisions. In the explanation to Clause 18 it has been stated "In its application to the marriages referred to in this sub-section, section 24 of the Special Marriage Act, 1954, shall be subject to the following modifications, namely:—In a case where section 24 of the Special Marriages Act applies, one has to refer to the provisions of the present Bill, the provisions of Section 24 of the Special Marriage Act and also the modifications made thereto in the present Bill. All this, to say the least, is confusion worse confounded.

It is perhaps with a view to avoid such confusion the Hindu Marriages Act of 1955 was passed as a self-contained enactment. The Special Marriage Act also is a self-contained enactment. Similarly this present legislation also in my opinion should be of a self-contained nature, avoiding preferences to another enactment. The only advantage, if it can be called an advantage, is to save a few rupees in the matter of printing. Hence I am strongly of the view that this Bill like the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954 should be a separate and self-contained piece of legislation embodying all the relevant provisions in full.

I should acknowledge my gratitude to the Law Minister and his officials for having agreed to the substance of some of my important amendments in regard to Clauses 4 and 18 and for having brought forward amendments incorporating the points covered by my amendments. They have also agreed to my amendment in Clause 6 of the Bill for which also my thanks are due to them.

I proposed another amendment by way of an addition of a sub-clause to clause 11 which empowers the Marriage Officer to refuse to solemnize a marriage understated circumstances. In the interests of the security of our State and also in conformity with certain views expressed in Parliament during the debate on a motion for reference to a Joint Committee of the Houses, I sought to make an amendment by which the Marriage Officer may also refuse to solemnize a marriage where one of the parties to the marriage being a diplomatic officer or a member of the defence forces of the Central Government, intends to marry a citizen of or a person domiciled in a foreign country. Because of the statement made by the Law Minister and his

officials that there are enough provisions in the disciplinary rules governing the behaviour of such persons, I did not press my amendment. I feel that the Law Ministry will do well to examine those rules carefully and satisfy themselves as to their adequacy in preventing the cases contemplated by my amendment. If those rules are not such as can achieve the object of my amendment, it behoves the Government to make relevant rules under the rule making power given by Clause 28 of the Bill, as otherwise serious threat is likely to be posed in regard to the security of our State.

K. P. MALLIKARJUNUDU

II

The Foreign Marriage Bill, 1963, despite its being thoroughly discussed in the Joint Committee meeting, is still not devoid of certain glaring desiderata. In this age of galloping science, the physical fitness of the marrying parties is a must. But in Clause 4 of the Bill nothing of the sort has been done to make it binding on the marrying partners to show medical certificates that they are free from venereal or any disease of communicable nature. This requirement is a must in those advanced countries where marriage has been put more on the scientific touchstone.

Besides, the Bill has failed to show the way where an Indian citizen marrying a foreigner is prohibited by any law in force in the foreign country but is consistent with international law or the comity of nations.

Then there are other lacunae. From these points of view, thus, I make my minute of dissent to this Bill.

SHIVA CHANDRA JHA

NEW DELHI;
February 14, 1969.

THE FOREIGN MARRIAGE BILL, 1963

ARRANGEMENT OF CLAUSES

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CLAUSES

1. Short title.
2. Definitions.
3. Marriage Officers.

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SOLEMNIZATION OF FOREIGN MARRIAGES

4. Conditions relating to solemnization of foreign marriages.
5. Notice of intended marriage.
6. Marriage Notice Book.
7. Publication of notice.
8. Objection to marriage.
9. Solemnization of marriage where no objection made.
10. Procedure on receipt of objection.
11. Marriage not to be in contravention of local laws.
12. Declaration by parties and witnesses.
13. Place and form of solemnization.
14. Certificate of marriage.
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23. Recognition of marriages solemnized under law of other countries.
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29. Amendment of Act 43 of 1954.
30. Repeal.

THE FIRST SCHEDULE.—FORM OF NOTICE OF INTENDED MARRIAGE.

THE SECOND SCHEDULE.—DECLARATION TO BE MADE BY THE BRIDE-GROOM AND THE BRIDE.

THE THIRD SCHEDULE.—FORM OF CERTIFICATE OF MARRIAGE.

BILL No. XIV-B of 1963

THE FOREIGN MARRIAGE BILL, 1963

(AS REPORTED BY THE JOINT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee)

A

BILL

to make provision relating to marriages of citizens of India outside India.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the Foreign Marriage Act, 1969.

Short title.

2. In this Act, unless the context otherwise requires,—

(a) “degrees of prohibited relationship” shall have the same meaning as in the Special Marriage Act, 1954;

Definitions.

-
- (b) "district", in relation to a Marriage Officer, means the area within which the duties of his office are to be discharged;
- (c) "foreign country" means a country or place outside India, and includes a ship which is for the time being in the territorial waters of such a country or place;
- (d) "Marriage Officer" means a person appointed under section 3 to be a Marriage Officer;
- (e) "official house", in relation to a Marriage Officer, means—
- (i) the official house of residence of the officer;
 - (ii) the office in which the business of the officer is transacted;
 - (iii) a prescribed place; and
- (f) "prescribed" means prescribed by rules made under this Act.

Marriage Officers. 3. For the purposes of this Act, the Central Government may, by notification in the Official Gazette, appoint such of its diplomatic or consular officers as it may think fit to be Marriage Officers for any foreign country.

Explanation.—In this section, "diplomatic officer" means an ambassador, envoy, minister, high commissioner, commissioner, *charge d' affaires* or other diplomatic representative or a counsellor or secretary of an embassy, legation or high commission.

CHAPTER II

SOLEMNIZATION OF FOREIGN MARRIAGES

Conditions relating to solemnization of foreign marriages. 4. A marriage between parties one of whom at least is a citizen of India may be solemnized under this Act by or before a Marriage Officer in a foreign country, if, at the time of the marriage, the following conditions are fulfilled, namely:—

- (a) neither party has a spouse living,
- (b) neither party is an idiot or a lunatic,
- (c) the bridegroom has completed the age of twenty-one years and the bride the age of eighteen years at the time of the marriage, and
- (d) the parties are not within the degrees of prohibited relationship:

Provided that where the personal law or a custom governing at least one of the parties permits of a marriage between

them, such marriage may be solemnized, notwithstanding that they are within the degrees of prohibited relationship.

5. When a marriage is intended to be solemnized under this Act, Notice of the parties to the marriage shall give notice thereof in writing in intended form specified in the First Schedule to the Marriage Officer of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given, and the notice shall state that the party has so resided.

6. The Marriage Officer shall keep all notices given under section 5 with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the "Marriage Notice Book", and such book shall be open for inspection at all reasonable times, without fee, by any person desirous of inspecting the same.

7. Where a notice under section 5 is given to the Marriage Officer, he shall cause it to be published—

(a) in his own office, by affixing a copy thereof to a conspicuous place, and

(b) in India and in the country or countries in which the parties are ordinarily resident, in the prescribed manner.

8. (1) Any person may, before the expiration of thirty days from the date of publication of the notice under section 7, object to the marriage on the ground that it would contravene one or more of the conditions specified in section 4.

Explanation.—Where the publication of the notice by affixation under clause (a) of section 7 and in the prescribed manner under clause (b) of that section is on different dates, the period of thirty days shall, for the purposes of this sub-section, be computed from the later date.

(2) Every such objection shall be in writing signed by the person making it or by any person duly authorised to sign on his behalf, and shall state the ground of objection; and the Marriage Officer shall record the nature of the objection in his Marriage Notice Book.

9. If no objection is made within the period specified in section 8 to an intended marriage, then, on the expiry of that period, the marriage may be solemnized.

Solemnization of marriage where no objection made.

Procedure
on receipt
of
objection.

10. (1) If an objection is made under section 8 to an intended marriage, the Marriage Officer shall not solemnize the marriage until he has inquired into the matter of the objection in such manner as he thinks fit and is satisfied that it ought not to prevent the solemnization of the marriage or the objection is withdrawn by the person making it.

(2) Where a Marriage Officer after making any such inquiry entertains a doubt in respect of any objection, he shall transmit the record with such statement respecting the matter as he thinks fit to the Central Government; and the Central Government, after making such further inquiry into the matter and after obtaining such advice as it thinks fit, shall give its decision thereon in writing to the Marriage Officer, who shall act in conformity with the decision of the Central Government.

Marriage
not to be
in contra-
vention
of local
laws.

11. (1) The Marriage Officer may, for reasons to be recorded in writing, refuse to solemnize a marriage under this Act if the intended marriage is prohibited by any law in force in the foreign country where it is to be solemnized.

(2) The Marriage Officer may, for reasons to be recorded in writing, refuse to solemnize a marriage under this Act on the ground that in his opinion, the solemnization of the marriage would be inconsistent with international law or the comity of nations.

(3) Where a Marriage Officer refuses to solemnize a marriage under this section, any party to the intended marriage may appeal to the Central Government in the prescribed manner within a period of thirty days from the date of such refusal; and the Marriage Officer shall act in conformity with the decision of the Central Government on such appeal.

Declara-
tion by
parties
and wit-
nesses.

12. Before the marriage is solemnized, the parties and three witnesses shall, in the presence of the Marriage Officer, sign a declaration in the form specified in the Second Schedule, and the declaration shall be countersigned by the Marriage Officer.

Place and
form of
solemniza-
tion.

13. (1) A marriage by or before a Marriage Officer under this Act shall be solemnized at the official house of the Marriage Officer with open doors between the prescribed hours in the presence of at least three witnesses.

(2) The marriage may be solemnized in any form which the parties may choose to adopt:

Provided that it shall not be complete and binding on the parties unless each party declares to the other in the presence of the Marriage Officer and the three witnesses and in any language understood by the parties,—“I, (A), take thee (B), to be my lawful wife (or husband)”:—

Provided further that where the declaration referred to in the preceding proviso is made in any language which is not understood by the Marriage Officer or by any of the witnesses, either of the parties shall interpret or cause to be interpreted the declaration in a language which the Marriage Officer or, as the case may be, such witness understands.

14. (1) Whenever a marriage is solemnized under this Act, the Marriage Officer shall enter a certificate thereof in the form specified in the Third Schedule in a book to be kept by him for that purpose and to be called the Marriage Certificate Book, and such certificate shall be signed by the parties to the marriage and the three witnesses.

Certificate
of mar-
riage.

(2) On a certificate being entered in the Marriage Certificate Book by the Marriage Officer, the certificate shall be deemed to be conclusive evidence of the fact that a marriage under this Act has been solemnized, and that all formalities respecting the residence of the party concerned previous to the marriage and the signatures of witnesses have been complied with.

15. Subject to the other provisions contained in this Act, a marriage solemnized in the manner provided in this Act shall be good and valid in law.

Validity
of foreign
marriage
in India.

16. Whenever a marriage is not solemnized within six months from the date on which notice thereof has been given to the Marriage Officer as required under section 5 or where the record of a case has been transmitted to the Central Government under section 10, or where an appeal has been preferred to the Central Government under section 11, within three months from the date of decision of the Central Government in such case or appeal, as the case may be, the notice and all other proceedings arising therefrom shall be deemed to have lapsed, and no Marriage Officer shall solemnize the marriage until new notice has been given in the manner laid down in this Act.

New
notice
when
marriage
not
solemni-
zed within
six
months.

CHAPTER III

REGISTRATION OF FOREIGN MARRIAGES SOLEMNIZED UNDER OTHER LAWS

17. (1) Where—

(a) a Marriage Officer is satisfied that a marriage has been duly solemnized in a foreign country in accordance with the law

Registra-
tion of
foreign
mar-
riages.

of that country between parties of whom one at least was a citizen of India; and

(b) a party to the marriage informs the Marriage Officer in writing that he or she desires the marriage to be registered under this section,

the Marriage Officer may, upon payment of the prescribed fee, register the marriage.

(2) No marriage shall be registered under this section unless at the time of registration it satisfies the conditions mentioned in section 4.

(3) The Marriage Officer may, for reasons to be recorded in writing, refuse to register a marriage under this section on the ground that in his opinion the marriage is inconsistent with international law or the comity of nations.

(4) Where a Marriage Officer refuses to register a marriage under this section the party applying for registration may appeal to the Central Government in the prescribed manner within a period of thirty days from the date of such refusal; and the Marriage Officer shall act in conformity with the decision of the Central Government on such appeal.

(5) Registration of a marriage under this section shall be effected by the Marriage Officer by entering a certificate of the marriage in the prescribed form and in the prescribed manner in the Marriage Certificate Book, and such certificate shall be signed by the parties to the marriage and by three witnesses.

(6) A marriage registered under this section shall, as from the date of registration, be deemed to have been solemnized under this Act.

CHAPTER IV

MATRIMONIAL RELIEF IN RESPECT OF FOREIGN MARRIAGES

Matrimo- 18. (1) Subject to the other provisions contained in this section, nial reliefs the provisions of Chapters IV, V, VI and VII of the Special Marriage to be under special marriage Act, 1954, shall apply in relation to marriages solemnized under this Act and to any other marriage solemnized in a foreign country between parties of whom one at least is a citizen of India as they apply in relation to marriages solemnized under that Act.

45 of 1860.

Explanation.—In its application to the marriages referred to in this sub-section, section 24 of the Special Marriage Act, 1954, shall be subject to the following modifications, namely:—

(i) the reference in sub-section (1) thereof to clauses (a), (b), (c) and (d) of section 4 of that Act shall be construed as a reference to clauses (a), (b), (c) and (d) respectively of section 4 of this Act, and

(ii) nothing contained in section 24 aforesaid shall apply to any marriage—

(a) which is not solemnized under this Act; or

(b) which is deemed to be solemnized under this Act by reason of the provisions contained in section 17:

Provided that the registration of any such marriage as is referred to in sub-clause (b) may be declared to be of no effect if the registration was in contravention of sub-section (2) of section 17.

43 of 1954.

(2) Every petition for relief under Chapter V or Chapter VI of the Special Marriage Act, 1954, as made applicable to the marriages referred to in sub-section (1), shall be presented to the district court within the local limits of whose ordinary civil jurisdiction—

(a) the respondent is residing at the time of the presentation of the petition; or

(b) the husband and wife last resided together; or

(c) the petitioner is residing at the time of the presentation of the petition, provided that the respondent is at that time residing outside India.

43 of 1954.

Explanation.—In this section, “district court” has the same meaning as in the special Marriage Act, 1954.

(3) Nothing contained in this section shall authorise any court—

(a) to make any decree of dissolution of marriage, except where—

(i) the parties to the marriage are domiciled in India at the time of the presentation of the petition; or

(ii) the petitioner, being the wife, was domiciled in India immediately before the marriage and has been residing in India for a period of not less than three years immediately preceding the presentation of the petition;

(b) to make any decree annulling a voidable marriage, except where—

(i) the parties to the marriage are domiciled in India at the time of the presentation of the petition; or

(ii) the marriage was solemnized under this Act and the petitioner, being the wife, has been ordinarily resident in India for a period of three years immediately preceding the presentation of the petition;

(c) to make any decree of nullity of marriage in respect of a void marriage, except where

(i) either of the parties to the marriage is domiciled in India at the time of the presentation of the petition, or

(ii) the marriage was solemnized under this Act and the petitioner is residing in India at the time of the presentation of the petition;

(d) to grant any other relief under Chapter V or Chapter VI of the Special Marriage Act, 1954, except where the petitioner is residing in India at the time of the presentation of the petition.

(4) Nothing contained in sub-section (1) shall authorise any court to grant any relief under this Act in relation to any marriage in a foreign country not solemnized under it, if the grant of relief in respect of such marriage (whether on any of the grounds specified in the Special Marriage Act, 1954, or otherwise) is provided for under any other law for the time being in force.

43 of 1954.

43 of 1954.

CHAPTER V

PENALTIES

Punish-
ment for
bigamy.

19. (1) Any person whose marriage is solemnized or deemed to have been solemnized under this Act and who, during the subsistence of his marriage, contracts any other marriage in India shall be subject to the penalties provided in section 494 and section 495 of the Indian Penal Code and the marriage so contracted shall be void.

43 of 1954.

(2) The provisions of sub-section (1) apply also to any such offence committed by any citizen of India without and beyond India.

Punish-
ment for
contra-
vention of
certain
other
conditions
for
marriage.

20. Any citizen of India who procures a marriage of himself or herself to be solemnized under this Act in contravention of the condition specified in clause (c) or clause (d) of section 4 shall be punishable—

(a) in the case of a contravention of the condition specified in clause (c) of section 4, with simple imprisonment which may extend to fifteen days or with fine which may extend to one thousand rupees or with both; and

(b) in the case of a contravention of the condition specified in clause (d) of section 4, with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

21. If any citizen of India for the purpose of procuring a marriage, intentionally—
Punish-
ment for
false dec-
laration.

(a) where a declaration is required by this Act, makes a false declaration; or

(b) where a notice or certificate is required by this Act, signs a false notice or certificate;

he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

22. Any Marriage Officer who knowingly and wilfully solemnizes a marriage under this Act in contravention of any of the provisions of this Act shall be punishable with simple imprisonment which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

Punish-
ment for
wrong-
ful action
of Mar-
riage
Officer.

CHAPTER VI

MISCELLANEOUS

23. If the Central Government is satisfied that the law in force in any foreign country for the solemnization of marriages contains provisions similar to those contained in this Act, it may, by notification in the Official Gazette, declare that marriages solemnized under the law in force in such foreign country shall be recognized by courts in India as valid.

Recogni-
tion of
mar-
riages
solemniz-
ed under
law of
other
countries.

24. (1) Where-

(a) a marriage is solemnized in any foreign country specified in this behalf by the Central Government, by notification in the Official Gazette, in accordance with the law of that country between parties of whom one at least is a citizen of India; and

(b) a party to the marriage who is such citizen produces to a Marriage Officer in the country in which the marriage was solemnized—

Certifi-
cation of
documents
of mar-
riages
solemnized
in accor-
dance
with local
law in
a foreign
country.

(i) a copy of the entry in respect of the marriage in the marriage register of that country certified by the appropriate authority in that country to be a true copy of that entry; and

(ii) if the copy of that entry is not in the English language, a translation into the prescribed language of that copy; and

(c) the Marriage Officer is satisfied that the copy of the entry in the marriage register is a true copy and that the translation, if any, is a true translation;

the Marriage Officer, upon the payment of the prescribed fee, shall certify upon the copy that he is satisfied that the copy is a true copy of the entry in the marriage register and upon the translation that he is satisfied that the translation is a true translation of the copy and shall issue the copy and the translation to the said party.

(2) A document relating to a marriage in a foreign country issued under sub-section (1) shall be admitted in evidence in any proceedings as if it were a certificate duly issued by the appropriate authority of that country.

Certified copy of entries to be evidence.

25. Every certified copy purporting to be signed by the Marriage Officer of an entry of a marriage in the Marriage Certificate Book shall be received in evidence without production or proof of the original.

Correction of errors.

26. (1) Any Marriage Officer who discovers any error in the form or substance of any entry in the Marriage Certificate Book may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other witnesses, correct the error by entry in the margin without any alteration of the original entry and add thereto the date of such correction.

(2) Every correction made under this section shall be attested by the witnesses in whose presence it was made.

Act not to affect validity of marriages outside it.

Power to make rules.

27. Nothing in this Act shall in any way affect the validity of a marriage solemnized in a foreign country otherwise than under this Act.

28. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the duties and powers of Marriage Officers and their districts;

- (b) the manner in which a Marriage Officer may hold any inquiry under this Act;
- (c) the manner in which notices of marriage shall be published;
- (d) the places in which and the hours between which marriages under this Act may be solemnized;
- (e) the form and the manner in which any books required by or under this Act to be kept shall be maintained;
- (f) the form and manner in which certificates of marriages may be entered under sub-section (5) of section 17;
- (g) the fees that may be levied for the performance of any duty imposed upon a Marriage Officer under this Act;
- (h) the authorities to which, the form in which and the intervals within which copies of entries in the Marriage Certificate Book shall be sent, and, when corrections are made in the Marriage Certificate Book, the manner in which certificates of such corrections shall be sent to the authorities;
- (i) the inspection of any books required to be kept under this Act and the furnishing of certified copies of entries therein;
- (j) the manner in which and the conditions subject to which any marriage may be recognized under section 23;
- (k) any other matter which may be, or requires to be, prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

29. In the Special Marriage Act, 1954,—

Amend-
ment of
Act 43 of

- (a) in section 1, in sub-section (2), for the words "outside the said territories", the words "in the State of Jammu and Kashmir" shall be substituted;

(b) in section 2, clauses (a) and (c) shall be omitted;

(c) in section 3, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) For the purposes of this Act, in its application to citizens of India domiciled in the territories to which this Act extends who are in the State of Jammu and Kashmir, the Central Government may, by notification in the Official Gazette, specify such officers of the Central Government as it may think fit to be the Marriage Officers for the State or any part thereof.”;

(d) in section 4, for clause (e), the following clause shall be substituted, namely:—

“(e) where the marriage is solemnized in the State of Jammu and Kashmir, both parties are citizens of India domiciled in the territories to which this Act extends.”;

(e) in section 10, for the words “outside the territories to which this Act extends in respect of an intended marriage outside the said territories”, the words “in the State of Jammu and Kashmir in respect of an intended marriage in the State” shall be substituted;

(f) in section 50, in sub-section (1), the words “diplomatic and consular officers and other” shall be omitted.

Repeal.

30. The Indian Foreign Marriage Act, 1903, is hereby repealed.

14 of 1903.

THE FIRST SCHEDULE

(See section 5)

FORM OF NOTICE OF INTENDED MARRIAGE

To

The Marriage Officer
for.....

We hereby give you notice that a marriage under the Foreign Marriage Act, 1969 is intended to be solemnized between us within three months from the date hereof.

Name and father's name	Condition	Occupation	Date of birth	Dwelling place	Permanent dwelling place and present dwelling place if not permanent	Length of residence in the present dwelling place

A.B. *Unmarried*WidowerDivorceeC.D. *Unmarried*WidowDivorces

Witness our hands, this.....day of.....

19.....

Sd. A.B.

Sd. C.D.

THE SECOND SCHEDULE

(See section 12)

DECLARATION TO BE MADE BY THE BRIDEGEROOM

I, A.B., hereby declare as follows:—

- I am at the present time unmarried (or a widower or a divorcee, as the case may be).

2. I have completed.....years of age.
3. I am not related to C.D. (the bride) within the degrees of prohibited relationship.
4. I am a citizen of.....
(to be filled up)
5. I am aware that, if any statement in this declaration is false, I am liable to imprisonment and also to fine.

Sd. A.B. (the bridegroom)

DECLARATION TO BE MADE BY THE BRIDE

I, C.D., hereby declare as follows:—

1. I am at the present time unmarried (or a widow, or a divorcee, as the case may be).
2. I have completed.....years of age.
3. I am not related to A.B. (the bridegroom) within the degrees of prohibited relationship.
4. I am a citizen of.....
(to be filled up)
5. I am aware that, if any statement in this declaration is false, I am liable to imprisonment and also to fine.

Sd. C.D. (the bride)

Signed in our presence by the above named A.B. and C.D. So far as we are aware, there is no lawful impediment to the marriage.

Sd. G.H.
Sd. I.J.
Sd. K.L.



Three witnesses.

(Countersigned) E.F.

Marriage Officer

Dated the.....day of.....19.....

THE THIRD SCHEDULE

(See section 14)

FORM OF CERTIFICATE OF MARRIAGE

I, E.F., hereby certify that on the.....day of.....19..... A.B. and C.D.....*appeared before me and that the declaration required by section.....† of the Foreign

*Herein give particulars of the parties.

†To be entered.

Marriage Act, 1969, was duly made, and that a marriage under that Act was solemnized between them in my presence and in the presence of three witnesses who have signed hereunder.

Sd. E.F.

Marriage Officer.

Sd. A.B. (bridegroom)

Sd. C.D (bride)

Sd. G.H.

Sd. I.J.

Sd. K.L.

} Three witnesses

Dated the.... day of.. 19

B. N. BANERJEE,

Secretary

